

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA**

IN RE:)	
)	
C&S AG, LLC)	Case No. BK 24-40200
)	
Debtors.)	Chapter 12
IN RE:)	
)	
C&S ORGANICS, LLC)	Case No. BK 24-40201
)	
Debtors.)	Chapter 12
IN RE:)	
)	
STEPHANIE OSBORN and)	Case No. BK 24-40202-BSK
COLTON OSBORN)	
)	Chapter 12
Debtors.)	
)	Jointly Administered Under
)	Case No. Bk 24-40202

MOTION TO CONDUCT RULE 2004 EXAMINATIONS

Stockmens Bank (the “Bank”) by and through its attorneys, John O’Brien of Spencer Fane LLP, moves the Court for an order allowing it to conduct Rule 2004 examinations in these jointly administered cases filed by Colton Osborn, Stephanie Osborn, C&S Ag, LLC and C&S Organics, LLC (collectively, the “Debtors”).

As set for the below, the Bank is requesting permission to obtain interrogatory answers and documents from one or more of the Debtors and examine one or more of the Debtors.

In support of this motion, the Bank states as follows:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. Consideration of this motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicate for the relief requested herein is FED. R. BANKR. P. 2004.

2. As of March 8, 2024, three of the Debtors jointly and severally owe the Bank not less than \$666,600.77 plus ongoing interest and reimbursables (the “Indebtedness”).

3. To secure the Indebtedness, Debtors granted the Bank a blanket security interest in equipment subject to senior purchase money security interests in certain equipment. The Bank has a first priority security interest in some of the Debtor’s equipment, and a second priority security interest in the remaining equipment which is the subject of third parties’ PMSI’s (the “Equipment Collateral”). The Bank also has a lien on eleven motor vehicles (the “Motor Vehicle Collateral”). The Bank also has first and second priority Deeds of Trust on the Debtor’s residence.

4. Pre-petition, Debtors defaulted on their obligations owed to the Bank.

5. At the meeting of creditors the Debtors indicated that some of the Equipment Collateral pledged to the Bank is no longer in the Debtors’ possession. But the Debtors did not provide details. The Debtors stated after the meeting of creditors they would provide to the Bank’s counsel a list of Equipment Collateral that has been sold or transferred. Despite numerous follow up requests after the meeting of creditors the Debtors have not provided any additional information to the Bank. Therefore formal discovery is needed on the current state of the Bank’s Equipment Collateral.

6. Bankruptcy Rule 2004 provides that, upon a motion of a party in interest, the Court may order the examination of any entity concerning “the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate, or to the debtor’s right to a discharge.” FED. R. BANKR. P. 2004(b).

7. Bankruptcy Rule 2004 is intended to give parties in interest an opportunity to examine those persons possessing knowledge of a debtor’s acts, conduct or financial affairs and provides “all interested parties with a mechanism for the investigation and reconstruction of the

debtor's affairs.” *In re Isis Foods, Inc.*, 33 B.R. 45, 46 n.2 (Bankr. W.D. Mo. 1983) (citation omitted).

8. “Rule 2004 allows the court to authorize the examination of any entity on the motion of any party in interest. Fed. R. Bankr. P. Rule 2004(a). The scope of such an examination is quite broad, relating to just about anything that deals with the debtor's actions, assets, liabilities or financial affairs, its right to a discharge, or any matter affecting the administration of the bankruptcy estate. Fed. R. Bankr. P. Rule 2004(b). It can be as simple as where are the keys to the filing cabinet or as complex as what happened to the money? It may also be used to examine ‘creditors and third parties who have had dealings with the debtor.’” *In re Sheetz*, 452 B.R. 746, 747–48 (Bankr. N.D. Ind. 2011) (citing *Matter of Wilcher*, 56 B.R. 428, 433 (Bankr. N.D. Ill. 1985)).

9. The attendance for examination and for the production of documents may be compelled as provided in Bankruptcy Rule 9016, which incorporates Federal Rule of Civil Procedure 45 into cases under the Bankruptcy Code. *See* FED R. BANKR. P. 2004(c).

10. The Bank is an interested party entitled to conduct Rule 2004 examinations to investigate the "acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge." FED. R. BANKR. P. 2004(b).

11. In order to hold effective examinations, the Bank requests Debtors be required to answer the interrogatories and produce the documents and information listed on **Exhibit A** attached hereto and incorporated herein by reference within 14 days of the date of this Court's order granting this motion. Additionally, the Bank requests that Debtors be required to appear for their Rule 2004 examinations within 21 days of the date of this Court's order granting this motion.

WHEREFORE, the Bank requests that the Court grant its motion and enter an order providing that:

- A. The Debtors, and each of them, are required to answer the interrogatories and produce the documents set forth on **Exhibit A** attached hereto to the Bank's counsel within 14 days of the date of this Court's order;
- B. The Debtors, and each of them, are required to appear for a Rule 2004 examination by Zoom or at the law office of Debtors' counsel – or such other location as the Bank and Debtors may agree – within 21 days of the date of this Court's order; and
- C. The Bank be granted such other and further relief as is just and equitable.

DATED May 14, 2024.

Respectfully submitted,

SPENCER FANE LLP

/s/John O'Brien

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Attorneys for Stockmens Bank

EXHIBIT A

Definitions

Osborn Parties – The term “you” or “Osborn Parties” shall mean Colton Osborn, Stephanie Osborn, C & S Organics, C & S Ag, LLC and/or Osborn Land & Cattle, LLC.

Correspondence – The term "Correspondence" shall include any and all emails, text messages, letters, notes, instant messages, social media messages or communications (i.e. Facebook or Instagram), faxes, memorandums, transcripts or notes of telephone or in person conversations, and any other notation, electronic or otherwise, conveying any type of communication.

Documents – The term "Documents" shall mean, without limitation, the following items, whether printed, written, or produced by hand: all original written recorded, or graphic matters whatsoever and all non-identical copies, thereof, including but not limited to, bills of sale, invoices, contracts for sale, checks, payment receipts, transportation records, papers, books, records, letters, photographs, slides, tangible things, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, cables, minutes, reports and recordings of telephone or other conversations, or of interviews, or of conferences, or of other meetings, affidavits, statements, summaries, opinions, reports, studies, analyses, bulletins, notices, announcements, advertisements, instructions, charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, diaries, lists, tabulations, books of account, receipts, records and invoices reflecting business operations, sound recordings, computer print-outs, “Web Sites” on the “Internet,” “e-mail” communications, all records kept by electronic or intangible means, photographic means or mechanical means, any notes, computer print outs, books of account, receipts, records and invoices reflecting business operations, all records kept by electronic, photographic, or mechanical means, any notes or drafts relating to the foregoing, and all things similar to any of the foregoing. In all cases where originals are not available, “Document” also means identical copies of original Documents and non-identical copies thereof.

INTERROGATORIES

1. Attached hereto as Exhibit 1 is a list of equipment and motor vehicles (the “List”). With respect to the List:
 - A. Do you still have in your possession all of the equipment and motor vehicles stated on the List?
 - B. If not, for each item on the List (hereafter, an “Item”) please provide the following information:
 - (1) What happen to the Item?
 - (2) What is the name and address of the person to whom you gave possession of the Item?

- (3) When did you allow the Item to leave your possession?
 - (4) Why did you allow the Item to be transferred from your possession?
 - (5) Describe any payment, trade-in allowance or any other consideration you received for each Item.
 - (6) What is the current location of the Item?
 - (7) Describe all Documents related to or concerning the transfer of the Item.
2. Have you transferred, sold, traded or disposed in any equipment or motor vehicles after January 1, 2020? For each such transfer or disposition:
 - A. State why you made such sale, trade or disposition.
 - B. State the name, address and telephone number of the transferee.
 - C. State the date of the disposition.
 - D. Describe the payment, trade-in allowance or other consideration you received.
 - E. State if your transferee subsequently transferred the Item.
 - F. State the current location of the Item.
 - G. Describe all of the Documents concerning the sale, trade or disposition of each Item.

REQUEST TO PRODUCE

1. Please produce all Documents You described in Your interrogatory answers.
2. Please produce all Documents concerning or related to transfers, sales, trade-in, disposition of any of your equipment or motor vehicles from January 1, 2020 to the present.

SCHEDULE I: Investments in Vehicles, Machinery, Equipment, etc.			
Description: Year, Make, Model, Serial #, VIN #			
OWNED EQUIPMENT			
	MARKET VALUE	Prior Lien	UCC Date Filing Number
7240 IHC Tractor (Serial #JJA0068505)	40,000	Osborn Land & Cattle	4/29/2019; 9819109405-2
1945 IHC H-Tractor	2,000	Osborn Land & Cattle	4/29/2019; 9819109405-2
475 IHC Disk (Serial #0470000J012863)	1,000	Osborn Land & Cattle	4/29/2019; 9819109405-2
Hawkins Ridger 8x36 - 8 row	1,500	Osborn Land & Cattle	4/29/2019; 9819109405-2
Hawkins Ridger 8x36 - 8 row	1,500	Osborn Land & Cattle	4/29/2019; 9819109405-2
Eversmen Ditcher	1,500	Osborn Land & Cattle	4/29/2019; 9819109405-2
Pivot Track filler	750	Osborn Land & Cattle	4/29/2019; 9819109405-2
Leon 3100 Blade (Big Ox) (Serial #624302)	35,000	Osborn Land & Cattle	4/29/2019; 9819109405-2
8 ft. Flat Out dirt scraper	3,000	Osborn Land & Cattle	4/29/2019; 9819109405-2
Rhino Ditch Mower 3 point (Serial #13900)	3,500	Osborn Land & Cattle	4/29/2019; 9819109405-2
Sickle Mower	1,000	Osborn Land & Cattle	4/29/2019; 9819109405-2
1071 Westfield Auger	1,500	Osborn Land & Cattle	4/29/2019; 9819109405-2
Yellow 6" auger w/motor	2,500	Osborn Land & Cattle	4/29/2019; 9819109405-2
Pivot 7 Tower Lateral/Windmill/Neison	500	Osborn Land & Cattle	4/29/2019; 9819109405-2
3 IR Surge Valve 10"	55,000	Osborn Land & Cattle	4/29/2019; 9819109405-2
Set back for Pivot	1,200	Osborn Land & Cattle	4/29/2019; 9819109405-2
Kelly Feed Wagon 5x12	500	Osborn Land & Cattle	4/29/2019; 9819109405-2
3 - propane tanks	500	Osborn Land & Cattle	4/29/2019; 9819109405-2
4 - Generators	200	Osborn Land & Cattle	4/29/2019; 9819109405-2
Air Compressor - portable	1,200	Osborn Land & Cattle	4/29/2019; 9819109405-2
Miller Welder	650	Osborn Land & Cattle	4/29/2019; 9819109405-2
Big Red Fuel Wagon	1,200	Osborn Land & Cattle	4/29/2019; 9819109405-2
1981 Old Blue	3,000	Osborn Land & Cattle	4/29/2019; 9819109405-2
Polaris ATV - newer green	750	Osborn Land & Cattle	4/29/2019; 9819109405-2
2008 Polaris A06LD27AB All Terrain	2,500	Osborn Land & Cattle	4/29/2019; 9819109405-2
	2,500	Osborn Land & Cattle	4/29/2019; 9819109405-2
7140 Case Magnum Tractor with Loader (Serial #JJA0029161)			
John Deere 9400 Tractor (Serial #RW9400H041386)	40,000	Stockmens	3/18/20; 9820177911-0 Blanket
Case Magnum 7250	70,000	Stockmens	3/27/20; 9820179814-6 Blanket
1995 Case Magnum 8950	40,000	Stockmens	4/29/2020; 2004001420-7 Blanket
1981 IH 1086 (Serial # 2610183J52326)	40,000	Stockmens	"
1066 IH Tractor (RESTORED)	10,000	Stockmens	"
2014 S-750 Skidsteer w/attachments (grapple bucket, rock bucket, forks, dirt bucket)	15,000	Stockmens	"
John Deere 544J Wheel Loader (Serial #DW544J2611877)	50,000	Stockmens	"
2015 Brent 1282 Grain Cart (Serial #B33810104)	40,000	Stockmens	"
2019 3M 1122 Grain Cart (Serial #1903817)	125,000	Stockmens	"
John Deere 559 Round Baler	100,000	Stockmens	"
H&S Hay rake	30,000	Stockmens	"
Sunflower Disk - 37' (Serial #01434E20060187)	4000	Stockmens	"
John Deere 3 point Disk - 18"	45,000	Stockmens	"
2 - Rolling Cultivators - 50'	2,500	Stockmens	"
JD 24' Disk Ripper	40,000	Stockmens	"
JD 25' Disc Ripper	18,000	Stockmens	"
K-Line Norwood Quikdill (Serial #2999PA192324)	15,000	Stockmens	"
2016 Orthman 1 Tripper Strip T11 (Serial #031704)	130,000	Stockmens	"
Unverfurth 32' Double Rolling Basket	90,000	Stockmens	"
225 Rowing Harrow	12,000	Stockmens	"
Orthman Row Stalker - 8 row	18,000	Stockmens	"
RC 25 Rhino Stalk Shredder (Serial #RC25-10184)	15,000	Stockmens	"
4720 XN Sprayer - 90ft booms (N04720X002264)	7,000	Stockmens	"
2019 Artex Manure SB600	65,000	Stockmens	"
2018 Artex Manure SB600	40,000	Stockmens	"
2019 Rhino Bat Wing Mower - 20' (Serial #41056)	40,000	Stockmens	"
H13114 XT Harvest International Auger	15,000	Stockmens	"
Westfield 15-35FL Auger	45,000	Stockmens	"
Brandt Auger 13x50 (Serial #9091706)	1,500	Stockmens	"
H1 15' Belt conveyor	13,000	Stockmens	"
Backhoe P51600 drive over belt conveyor	14,000	Stockmens	"
2018 Valley 6,000 Series Pivot	15,000	Stockmens	"
2018 Valley 7,000 Series Pivot	15,000	Stockmens	"
2010 Zimatic Center Pivot (Serial #151530)	65,000	Stockmens	"
(2) 1984 Valley Pivots	65,000	Stockmens	"
Demco Saddle Tanks	45,000	Stockmens	"
Demco Saddle Tanks	10,000	Stockmens	"
Hooper Swinger	12,000	Stockmens	"
3 - 2600 Displays w/activation	12,000	Stockmens	"
2 - 2630 Displays	850	Stockmens	"
5 - Globes	21,000	Stockmens	"
2 - 5,000 gallon Schaben tanks w/pump	14,000	Stockmens	"
8 Loads of Irrigation Pipe	5,000	Stockmens	"
10 loads 8" pipe @ .40 ft	7,000	Stockmens	"
3 - Pipe Trailers	3,600	Stockmens	"
(5) Spt. Bale Movers @ \$1,000 each	3,500	Stockmens	"
(2) Surefire Pumps		Stockmens	"
2021 TC 16 Row 36" Tool Bar Custom Built Precision Planter	2,000	Stockmens	"
H&S Hay Rake Ser# 410788	150,000	Stockmens	PMSI 4/9/21; 9821265281-2
	18,000	Stockmens	PMSI 6/8/20; 9820195612-8
Subtotal Owned Equipment>>	1,488,050		
FINANCED EQUIPMENT			
	MARKET VALUE	Prior Lien	UCC Date Filing Number
John Deere 8370 Row Crop	250,000	John Deere	4/29/2020; 9820186125-4
Orthman 16R36 Cultivator with Shields	50,000	Ascentium Capital	8/3/2020; 9820194336-1
John Deere 560 Round Baler	30,000	John Deere	8/4/2020; 982010450-4
2021 Reinke Center Pivot	154,000	TCF	1/19/2021; 9821246649-3
2021 Reinke Center Pivot	154,000	TCF	1/19/2021; 9821246649-3
2021 Reinke Center Pivot	154,000	TCF	1/19/2021; 9821246649-3
John Deere W235 Windrower/Swather	154,000	John Deere	2/1/2021; 9821249663-4
John Deere 644K Wheel Loader	180,000	John Deere	2/9/2021; 9821251630-7
John Deere 9560 Crawler Tractor	170,000	John Deere	4/11/2022; 9822343925-5
2021 Reinke 7 tower pivot	115,000	TCF	5/13/2021; 9821273109-8
2021 Reinke 7 tower pivot	115,000	TCF	5/13/2021; 9821273109-8
Great Plains Drill	120,000	John Deere	5/2/2023; 9723420467-7
Better 3554 Rotary Hoe	35000	Yetter	
Sukup Grain Bin	210,000	M2 EQUIPMENT	3/28/2021; 2103001432-2
Sukup Grain Bin	210,000	M2 EQUIPMENT	2/09/2022; 9822330081-0
Subtotal Financed Equipment>>	2,087,000		
TOTAL EQUIPMENT>>	3,575,050		

Titled Vehicles			
	MARKET VALUE	Prior Lien	UCC Date Filing Number
2000 GMC Sierra K3500 Pickup 1GTHK34J8YR141083	5,000	Stockmens	7013302551776: 8/24/21
2000 GMC Sierra K2500 Pickup 1GTGK24R1YR105540		Stockmens	7013303228775: 8/24/21
1997 Chevrolet K3500 Pickup 1GCHK34R5VFC49769	4,000	Stockmens	7013302218514: 8/24/21
1996 Chevrolet 2500 Dark Blue Pickup 1GCGK24F3TZ131068	2,500	Stockmens	7013303063905: 8/24/21
1996 GMC Sierra K3500 Pickup White 1GTGK24R9TZ507699		Stockmens	7013303153934: 8/24/21
1990 Chevrolet 1500 Suburban 1GNEV16K8LF129358	3,000	Stockmens	7013302411824: 8/24/21
1987 GMC 2500 Pickup Black 1GTGV24K2HJ512632	3,000	Stockmens	7013302971065: 8/24/21
1987 Chevrolet V10 Pickup Blue 1GCEV14K8H5129656	3,000	Stockmens	7013302837659: 8/24/21
1987 Chevrolet Pickup Gray 1GCEV14H1HF391004	3,000	Stockmens	7013302574129: 8/24/21
Semi Trucks			
1988 Peterbilt 379 Truck 1XP5D20X1JD264097	12,000	Stockmens	7013302809652: 8/24/21
1991 Peterbilt 377 1XPGB9K7MN306594	20,000	Stockmens	7013302805084: 8/24/21
2011 Chevy 3500			
2023 Polaris Ranger	30,000		
2008 Yamaha YZ250 FXW Motor Cross	35,000		
Trailers			
PJ Flatbed tilt trailer - 18'	3,500		
Diamond Gooseneck Horse Trailer			
10 Pipe Trailers @ \$2,000 a piece	7,000		
1988 Freight Hay Trailer 48'	3,000		
18' Buck Dandy Trailer			
Doonan Trailer 53'	20,000		
	7,500		
	4,000		
Semi Trucks			
1996 Peterbilt 377	18,000	North Mill Equipment	
1994 Peterbilt 377 Truck			
2015 Kenworth T800	20,000		
1984 International Cabover Truck	12,000		
	40,000	East Harbor	
	2,000		
Totals	244,000		

CERTIFICATE OF SERVICE

The undersigned certifies that on May 14, 2024 I served via CM/ECF system an electronic copy of the foregoing on all parties against whom relief is sought and those otherwise entitled to service pursuant to the Fed. R. Bankr. P. and the L.B.R. at the following addresses:

Andrew R. Biehl	abiehl@walentineotoole.com
Bradley D. Holbrook	bradh@jacobsenorr.com
Brandon R. Tomjack	btomjack@bairdholm.com
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Michael J. Whaley	mwhaley@clinewilliams.com
Michael R. Snyder	msnyder@snyderandhilliard.com
Patrick Raymond Turner	pturner@turnerlegalomaha.com
Richard P. Garden, Jr.	rgarden@clinewilliams.com

The undersigned further certifies that on May 14, 2024 a true and correct copy of the foregoing was served to the following by first class, postage prepaid U.S. Mail:

Stephanie Osborn
42720 Road 763
Cozad, NE 69130

Colton Osborn
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/s/John O'Brien
John O'Brien